

private law firms representing major corporations, one economics professor, one retired magazine publisher, and Pacific's president and CEO, Ronald Zumbun.<sup>8</sup> Because nearly all of its funding and control elements emanate from the corporate sphere, the Pacific Legal Foundation itself is undeniably serving as a different type of front for the voice of industry.

Pacific's actual litigation on behalf of industry is easily traceable. On the nuclear energy issue, for example, PLF battled for federal pre-emption of the regulation of nuclear power. On the same day PLF began its lawsuit, a similar case opened involving Pacific Gas and Electric, which was then trying to build the Sundesert nuclear power plant and would benefit tremendously if federal regulation could overcome the grass-roots driven state initiative. PLF won its case, establishing the law, and the PG&E case followed suit based on PLF's litigation.<sup>9</sup>

Because PG&E, as well as other interested utilities, have given hundreds of thousands of dollars to the Pacific Legal Foundation in the past two decades, one must question PLF's motivation for initially bringing the case to court. At least seven of PLF's trustees were either on the board of other electric utilities or were otherwise strongly affiliated with the nuclear industry. As professor Houck explains, "These contributions, as sizeable as they may be in the aggregate, do not suggest that PLF is owned by these utilities. What they do show is that the utilities have exerted strong influence on the firm through financing and leadership on its board of trustees, and that PLF responds to this influence by undertaking lawsuits which materially further utility interests."<sup>10</sup> "PLF's interest in nuclear energy development is more than philosophical," Houck says.<sup>11</sup>

In a case involving Pacific supporters Monsanto, Olin, and Lilly, PLF argued that residual substances leached from plastic food containers should not be qualified as "food additives," as a federal regulation mandated. Each of these chemical companies had much to gain from Pacific's litigation. PLF is more currently fighting against rent control, in line with its real estate development supporters; for state and federal government responsibility for hazardous waste clean-ups, in line with its support from chemical companies; and for mineral exploration in Alaska, in line with its oil and mining company constituency.<sup>12</sup> In fact, one would be hard-pressed to find a single example of a case in which Pacific litigated against the benefits of corporate America, and more specifically, its direct financial supporters.

In 1981 PLF managing attorney Raymond Momboisse addressed the National Association of Manufacturers. In his speech, Momboisse attempted to demonstrate PLF's legitimacy by showing it to be a group of poor businessmen who were battling gigantic anti-business law firms. "[Anti-business public interest law firms] are particularly fond of posturing themselves as David aligned against Goliath," he said. "The evaluation of the disparity in force is correct, only the actors are mislabeled. The anti-business 'public interest' law firms are Goliath. 'Business' is the David, but without his trusty slingshot."<sup>13</sup>

Most would disagree. Business continues to lavish millions of dollars at the feet of organizations such as Pacific, giving an entirely new meaning to the notion of a "charitable, scientific, or educational" institution. "No tax exemption should be available to firms organized to represent the interests of specific business members or contributors," Houck says. "... If the public interest has a meaning, it is as a value which transcends the places where private interests go. This is a meaning worth preserving."<sup>14</sup>

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# PACIFIC LEGAL FOUNDATION

*"Pacific Legal Foundation is a public interest law firm in the same way the catsup is a vegetable under Reagan's new school lunch guidelines."*

-- Robert Gnaizda of Consumer's Union<sup>1</sup>

*"To qualify firms as public charities that are funded and directed by business interests and that act substantially on their behalf stretches the concepts of charity and public interest practice beyond meaningful definition. And beyond the present standards for public interest law."*

-- Tulane Law Professor Oliver Houck<sup>2</sup>

In 1984, Oliver Houck, a professor at Tulane Law School, published a report in the *Yale Law Journal* questioning the legitimacy of the corporate-sponsored "public interest law firms" (PILFs) as tax-exempt institutions. These PILFs, Houck noted, are "created, funded, and remain largely directed by the leaders of American business corporations." Are they then "charitable, scientific, or educational," as mandated by section 501(c) of the Internal Revenue Code? Houck found that a number of so-called "public interest" firms almost exclusively serve the needs of their private financial supporters. The oldest and the biggest of these is the Pacific Legal Foundation (PLF).

Founded in 1973, the Pacific Legal Foundation set up its headquarters in the Sacramento Chamber of Commerce building. For nearly twenty years, it has come to the defense of chemical manufacturers, oil producers, mining and timber companies, real estate developers, the nuclear power industry, and electric utilities, to name a few. It has fought clean air and water legislation, the closing of federal wilderness areas to oil and gas exploration, workers' rights, and corporate taxation. In fact, Houck's study found 70 of the 132 evaluated court cases in which PLF was involved to be invalid or inappropriate for a "public interest" law firm. An additional 16 cases were found to be "questionable."<sup>3</sup>

As Houck points out, corporate donations to public interest organizations are perfectly legitimate. The problem occurs when these organizations, and particularly law firms, act on behalf of the corporate sponsors in the majority of their cases.

Pacific, for example, has received major donations from Southern Pacific (a major land-holding and development corporation in California), Knudsen Corporation, Fluor Corporation, and Title Insurance.<sup>4</sup> Major corporate foundations have contributed as well, including Eli Lilly, Coors, ARCO, Ford, Monsanto, Bank America, Weyerhaeuser, Gulf Oil, Alcoa, Venus Oil, and Superior Oil.<sup>5</sup> These contributions are often significant -- the Lilly Foundation (from the pharmaceutical family fortune) has donated at least \$900,000 since 1978, and the Sarah Scaife Foundation (from the Mellon family fortune) has given \$310,000 in just two contributions since 1984.<sup>6</sup> Furthermore, well over eighty percent of Pacific's revenues come from corporations or corporate foundations, greatly hampering its ability to make unpressured or unbiased decisions as a public interest organization.<sup>7</sup>

Apart from the massive funding it receives from these corporations, Pacific's board of trustees is largely made up of CEOs and vice presidents of such companies. Currently, the twenty one members of Pacific's board include: nine top business executives, nine partners of

## Notes

1. "With Charity For All," by Oliver Houck. Yale Law Journal, July, 1984, p. 1544.
2. Ibid.
3. Ibid., p. 1465.
4. Ibid., p. 1462.
5. Ibid.
6. From the files of Wesley McCune, Director of Group Research, Inc.
7. Pacific Legal Foundation 1990 Annual Report.
8. Ibid.
9. "With Charity For All," Houck, *Yale Law Journal*, pp. 1466-7.
10. Ibid., p. 1468.
11. Ibid., p. 1466.
12. *Making a Difference!* brochure published by the Pacific Legal Foundation, p. 5.
13. "With Charity For All," Houck, *Yale Law Journal*, p. 1547.
14. Ibid., p. 1545.
15. "With Charity for All," by Houck, *Yale Law Journal*, and research done at the Foundation Center, on file with the authors.

## **Pacific Legal Foundation<sup>15</sup>**

Known contributors -- partial list

Ahmanson Foundation  
Alcoa Foundation  
American Farm Bureau Federation  
ARCO Foundation  
Bank America Foundation  
Lynde and Harry Bradley Foundation  
Chevron  
Construction Trades Council of California  
Adolph Coors Foundation  
Fluor Corporation  
Ford Motor Company Fund  
Gulf Oil Foundation  
William Randolph Hearst Foundation  
J.M. Foundation  
Knudsen Corporation  
Eli Lilly Endowment  
Monsanto Fund  
M.J. Murdock Charitable Trust  
John M. Olin Foundation  
Pacific Gas and Electric  
Pacific Power and Light  
Safeco Insurance  
San Diego Federal Savings and Loan  
San Diego Gas and Electric  
Santa Fe Railway Company  
Sarah Scaife Foundation  
Seattle Foundation  
Southern California Edison  
Southern Pacific  
State Building Exchange  
Harry and Grace Steele Foundation  
Superior Oil Foundation  
Title Insurance Corporation  
Venus Oil Foundation  
Weingart Foundation  
Weyerhaeuser Foundation  
Arthur Young and Company

Dushoff cites mining activity in environmentally sensitive areas as another reason to reform the Mining Act. "Federal land managers have been forced to allow uranium mining by several companies, the largest being Energy Fuels Nuclear, on the border of Grand Canyon National Park; pumice mining by Copar above the wild and scenic Jemez River in New Mexico; and mining by California Nickel Co. above the Smith River in California."<sup>7</sup>

Preserving the 1872 law will become more difficult for People for the West! as support for reforming it gains speed. PFW's proposed 1991 budget is \$1.7 million, which it admits is "a lot of money for a grass-roots organization to manage."<sup>8</sup> The money will go to continued rallies and demonstrations, publications, and "membership meetings" which serve as a shield for PFW's industry agenda.

"What we're hearing from the people who have been to the meetings," says Judge, "is that they don't say they're funded majorly by the mining corporations and oil and gas industries and the paper organizations. They're out there saying we're a grass-roots organization getting people to defend their liberties. They try to gather grass-roots support for their efforts. But what they really are is a major industrial front group."<sup>9</sup>

## PEOPLE FOR THE WEST!

*"Perhaps the most significant advancement this year will come with true grass-roots representation as voting members on our board of directors. Hats off to our current board who voted unanimously to make this happen."*

-- Barbara Grannell, executive director of People for the West!<sup>1</sup>

When Congress began hearings this year on revising the 1872 Mining Law, NERCO Minerals wasn't too thrilled. The law gives anyone who finds valuable mineral deposits on federal land the right to purchase that land for a maximum of \$5 per acre. For mining companies, the 119-year-old law is as precious than the gold, silver, and copper that they extract. For the rest of the country, the law continues to rob taxpayers of their property and destroy the environment.

So NERCO and at least fifty other mining corporations did what any self-serving industry would do in the face of peril -- they set up a "grass-roots campaign" to lobby for keeping the outdated mining law intact. What better to call this campaign than "People for the West! A Grass-roots Campaign in Support of Western Communities"?

According to Don Judge, executive secretary of the Montana AFL-CIO, NERCO and Cyprus Minerals each gave \$100,000 to the campaign last year. Chevron gave \$45,000. Hecla Mining gave \$30,000. And dozens of other mining companies gave a total of \$800,000.<sup>2</sup>

People for the West! involves itself in such activities as informing the families of miners and others that without the 1872 law, the West would turn into a den of child abuse, wife beating, and alcoholism.<sup>3</sup> There would be no more jobs and no more money -- just dried up communities of scavengers for food and clothing. The group even goes so far as hiring the wives and children of miners to picket at state legislatures and to join protest rallies. PFW then publishes photographs of these "demonstrations" in its monthly newsletter. Lois Gibbs, a Love Canal survivor and the founder of Citizens Clearinghouse for Hazardous Waste finds the newsletter appalling.

"Have you seen their logo?" Gibbs asks. "It has a hardhat worker, and a woman, and a farmer... It's the same kind of thing as our logo! It's disgusting.... PFW is a corporate organization in which they use grass-roots people to project their position on issues in legislation."<sup>4</sup>

The organization is an outgrowth of the Western States Public Lands Coalition (WSPLC), a group also supported by mining interests.

By fostering its grass-roots image, People for the West! has succeeded so far in its efforts to keep the 1872 Mining Law on the books. According to Jonathan Dushoff, policy analyst for the Taxpayer Assets Project, the law is responsible for continued injustices to taxpayers and to the environment.

"Today it is not uncommon for prospectors to turn around and sell land bought at fire-sale prices under the Act for thousands of dollars an acre," says Dushoff. "In one case, 44 acres of land purchased from the government for \$110 were later offered for sale at \$484,000.<sup>5</sup> . . . The Act also endorses the giveaway of billions of dollars of federally owned minerals."<sup>6</sup>

## Notes

1. People for the West! newsletter, July 1, 1991, p. 1.
2. Telephone interview with Don Judge, July, 1991.
3. Telephone interview with Lois Gibbs, July 19, 1991.
4. Ibid.
5. "There's Gold Buried Under Capitol Hill," by Jonathan Dushoff. *Wall Street Journal*, January 16, 1991.
6. Interview with Jonathan Dushoff, July 25, 1991.
7. "There's Gold Buried Under Capitol Hill," Dushoff, *Wall Street Journal*.
8. People for the West! newsletter, p. 1.
9. Telephone interview with Don Judge.
10. Telephone interview with Judge.

## People for the West!<sup>10</sup>

Contributors as of 1991 -- partial list

Alaska Miners Association  
Atlas Corporation  
Centurian Gold Ltd.  
Chevron U.S.A.  
Crown Resources  
Cyprus Minerals  
Dayton Development Corporation  
Eddy Potash  
Euro-Nevada Mining Corporation  
FMC Gold Corporation  
Franko Nevada Mining Corporation  
Hecla Mining Co.  
Kennekott Corporation  
Minerex Resources Ltd.  
Nerco Minerals  
Running K Ranch  
U.S. Precious Metals Ltd.  
Western World Mining  
Westmont Mining



then responsible for "getting rid" of the unwanted caller. And Donley says that in order to get the survey forms, and thus the free cigarettes, callers must sound genuine. Any suspicious people are immediately shut out of the process.

Numan also finds fault with Philip Morris' promise of confidentiality to the smokers who fill out the surveys. According to Numan, the information is not kept confidential at all. Every POL employee has access to the surveys, which are simply filed on the office computer. POL employees are instructed to tell callers that a computer actually reads the information on the surveys and that this information is kept strictly confidential. "They even went so far as to make it look as though it was something that was read by a computer, with the little pencil fill-ins," contends Numan. "But really, data entry clerks were looking over that information. It was sometimes openly discussed."<sup>4</sup>

## PRODUCT OPINION LABORATORY

*"We were even told when they called up our 1-800 number to join that if they asked if we were in any way affiliated with any tobacco company, but in particular Philip Morris, to lie to them and tell them, 'No, of course not. We're an independent company.' We were instructed by our supervisors to lie. No questions asked. To point-blank lie."*

-- Wayne Numan, former employee of the Product Opinion Laboratory<sup>1</sup>

It's getting tougher to find smokers these days. According to the Centers for Disease Control, only 28 percent of Americans still smoke regularly, compared to 40 percent 25 years ago.<sup>2</sup> So to better market their cigarettes, some Philip Morris executives came up with a bright idea. They would ask thousands of smokers about their incomes, their jobs, their marital status, their age, and a host of other personal questions to find out who was buying Philip Morris cigarettes and which groups needed to be targeted. The more personal the questions, the more helpful the surveys would be to Philip Morris marketing executives.

But they had one small problem. How could they get such personal information from so many people? Most people would not be willing to divulge the answers to personal questions about their families to a company who might use this information in questionable ways. The answer was to create the Product Opinion Laboratory (POL), an "independent" group which would solicit smokers to be on the POL "panel" in exchange for free cigarettes. To be on the "panel" would simply mean supplying the answers to dozens of such questions. Smokers would be notified about the "cigarettes-for-surveys" deal by notices in cigarette packages and by word of mouth. In this way, Philip Morris would have the answers to its marketing questions, and America's smokers would get some free cigarettes.

But according to Wayne Numan, the entire operation is very deceptive. For four months Numan was one of the seven Philip Morris employees making up the Product Opinion Laboratory until ethical conflicts with Philip Morris caused him to leave the organization. "[Citizens] joined up with the understanding that we were an independent company and that we had nothing to do with Philip Morris," he says. "So they were being misled. We were sucking confidential information out of them and using it for Philip Morris' interests without these people knowing it."

According to Anne Donley, Executive Director of the Virginia Group Against Smoking Pollution, "Philip Morris' interests" do not stop at marketing schemes. She says that by now Philip Morris has collected well over 250,000 surveys nationwide, which the tobacco company can use as a database for its so-called "smokers' rights" groups. Furthermore, Donley asserts that Philip Morris can also use the information as a direct lobbying tool.<sup>3</sup>

The Product Opinion Laboratory has remained so secretive that Numan was verbally reprimanded for once answering the phone, "Philip Morris, how may I help you?" The incident resulted in a meeting in which "everyone was instructed at that point to lie to people that asked if we were affiliated with Philip Morris," Numan says. Any caller who sounds suspicious or voices a complaint is immediately referred to another operator -- Pamela Dawson. But according to Numan, Pamela Dawson does not exist. The name is simply a code to alert another operator, whose real name is Faye Warner, of a potential problem. Warner is

# PROJECT NEW START

*"New Start is a scam with insurance companies to confuse the public."*

-- Arizona Senate Minority Leader Alan Stephens, D-Phoenix<sup>1</sup>

Would you buy auto insurance that values your life and that of your spouse and children at \$5,000? A policy that covers medical costs only up to \$15,000, regardless of how high they might be? That pays students, homemakers, retired citizens, and laid-off workers nothing, even if they are hurt so badly they will never be able to work, because technically there is no direct wage loss? A policy that takes away your right to sue for pain and suffering?

These are just a sampling of the questions critics raised when a group calling itself "Arizona New Start" proposed instituting the choice of no-fault insurance in Arizona in 1989. The bill was soundly defeated 85-15 percent despite New Start's \$900,000 budget, yet the proposal raised many eyebrows in Arizona that year. Who would spend so much time and money to introduce an outdated and, according to some, unconstitutional type of insurance to the Arizona legislature? The answer is six insurance companies, including Allstate, USAA, GEICO, Nationwide, State Farm, and Farmers, says Jim Roush, staff director of Fairness and Accountability in Insurance Reform.<sup>2</sup>

The national organization which targeted Arizona as its "guinea pig state" is called Project New Start (PNS), and 96 percent of Arizona New Start's budget came from PNS, according to Roush. Project New Start also financed a similar proposal called Consumer Choice, making the total cost of its Arizona no-fault campaign a hefty 1.8 million dollars.<sup>3</sup> The reason for the insurance companies' interest in promoting no-fault is simple -- by taking away the right to sue, these insurance companies can cut the benefits they must pay to accident victims by as much as 64 percent.<sup>4</sup>

Here's how the Arizona no-fault proposed by PNS works. If you get in a car accident, your insurance company pays for the damages to your car, your wage losses while you cannot work, and your medical bills, all within thirty days. While this may seem like a simple and easy method, it has several important drawbacks. Your insurance company will only pay up to \$10,000 in property damages, and \$200 per week -- no more than \$15,000 total -- in wage losses, medical costs, and death benefits.<sup>5</sup> Under no-fault, pain and suffering are negligible. The insurance company tells you who your doctor must be. Your right to sue is taken away. And because no one is considered at fault under this system, your driving record would reflect no difference between you and, for example, a drunk driver that slams into you -- it would simply read, "accident."<sup>6</sup>

Furthermore, the system would create legal havoc on the highways, according to Public Citizen.<sup>7</sup> The legal mess created by such circumstances is part of the reason no-fault has not been successfully installed in any state in over ten years. In fact, in the past decade three states -- Nevada, South Carolina, and Pennsylvania -- have repealed their no-fault laws.<sup>8</sup>

The twenty-three states currently using some form of no-fault have had limited success

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## Notes

1. Telephone interview with Wayne Numan, July, 1991.
2. Telephone interview with the Centers for Disease Control, July, 1991.
3. Telephone interview with Ann Donley, July, 1991.
4. Telephone interview with Numan.

## **Project New Start<sup>13</sup>**

Contributors as of 1991

Allstate Insurance

Farmers Insurance

GEICO Insurance

Nationwide Insurance

State Farm Insurance

USAA Insurance

with the policy. Of the ten states with the highest average premiums, seven use no-fault, and of the ten states with the lowest average premiums, only two use no-fault.<sup>9</sup> So, while insurance companies claim that no-fault cuts litigation costs and therefore decreases premiums, the opposite has proven to be true.

Roush is convinced that once the choice of no-fault is put in place in an area, the insurance companies could manipulate consumers to choose no-fault over traditional liability by temporarily lowering no-fault premiums. Once enough people had no-fault policies, the insurance companies could then raise the premiums of both no-fault and traditional policies, thus making consumers pay for no-fault what they used to pay for traditional liability. One estimate expects that "due to pricing factors, more than 90% of the motorists will choose the no-fault system."<sup>10</sup> Thus, by using the rhetoric of "choice," the insurance companies, under the guise of Project New Start, could force no-fault on everyone and phase out traditional liability altogether.

While Project New Start's financial supporters -- the six insurance companies -- would have everything to gain by installing no-fault laws around the country, the group itself came under heavy attack in Arizona and will likely face the same criticisms in Maryland and Connecticut, where it is trying again to pass no-fault. One fact that has caused the public to be wary of PNS is that Robert McDermott, Chairman and CEO of USAA, and John Martin, President of Aetna, serve on Project New Start's National Joint Board.

"I'm somewhat appalled at the lengths to which the insurance companies will go to deceive the public,"<sup>11</sup> said Arizona State Senator David Bartlett, who called New Start a "directly funded front group" for insurance companies. While the exact funding from each insurance company to Project New Start has not been made public, Bartlett, Roush, and others are convinced that almost all of New Start's money comes from the six insurance companies. "They have never admitted where they get their funding from," Roush says, but even in light of all the accusations against PNS, "they have never denied it, either."<sup>12</sup>

scientific knowledge and despite the precedents that exist." Castleman is surprised that on the issue of asbestos, even such conservative organizations as the Environmental Protection Agency and the Occupational Safety and Health Administration have expressed opinions contrary to the SBA's. Yet the group has still proven effective, due in part to its ability to represent itself as a legitimate public interest organization.

The Alliance's statements and positions on asbestos-related issues are almost always at odds with those of independent experts. Among its opinions are the notion that many asbestos-caused diseases can be prevented by simple clean-up and patching of damaged areas, the idea that it is usually safer to leave asbestos in buildings than to risk removing it, since there are few contractors who can do the job safely, and the belief that low level exposure to asbestos is almost never dangerous.

Barry Castleman disagrees with all these contentions. Patching and clean-up only works when damage to ACM's are small, and it is particularly useless if the ACM is near an air circulation system. Removal can also be performed very safely, and ironically, there is only a shortage of skilled asbestos removal contractors at the present time as a result of the Alliance's own efforts to decrease demand for such work. Furthermore, there have been numerous documented cases of asbestos-related diseases occurring when victims have not been directly exposed to intense levels of asbestos particles.<sup>6</sup>

Despite its obvious bias, SBA still poses as an organization which can present worthwhile evidence concerning asbestos and therefore serve the public interest. In a recent letter to the EPA urging that organization to adopt a policy which would not require asbestos removal from buildings, but would simply notify those who must work with ACM's of the presence of the minerals, SBA president John Welch wrote, "The actions outlined above will more than adequately protect occupants and workers in public and commercial buildings."<sup>7</sup> In fact, it seems clear that all the Safe Buildings Alliance is interested in protecting is the collective pocket book of asbestos-producing corporations and their insurance companies.

In 1987, a Pennsylvania judge found this to indeed be the case. In a class action lawsuit against the SBA members and its non-member supporter Pfizer, Inc., on behalf of a number of public and private schools, the judge ruled that in the future, SBA must identify the defendant companies as its members and principal funders when distributing informational literature to the schools. He reasoned, "Due to the financial and operational control that the SBA defendants exercise over the SBA, the SBA is merely the alter ego of the SBA defendants [U.S.] Gypsum, National Gypsum. . .W.R. Grace. . .Celotex. . .[and] Owens-Corning Fiberglass." Therefore, he judged their information to be "commercial speech" ("communication to advance business interests") which is less protected by the constitution than are other forms of speech.<sup>8</sup>

## SAFE BUILDINGS ALLIANCE

*"Corporate influence is corporate influence. It's the same old game but the names are different. We see it again and again, every time there's money involved over something like this. . . especially where you're talking about the possible transfer of many billions of dollars to the victims of our society from the powerful interests that are victimizing them. That's not something that ever happens easily."*

-- Barry Castleman on the Safe Buildings Alliance<sup>1</sup>

An article titled "Asbestos: Scientific Developments and Implications for Public Policy," appeared in the January 29, 1990 issue of *Science* magazine. The authors of the article admit that prolonged exposure to substances containing the minerals commonly known as asbestos could cause such horrible diseases as mesothelioma (a rare form of respiratory cancer), lung cancer, and asbestosis -- a lung scarring disease which leads to respiratory and often cardiac failure. But the authors also concluded that "Available data do not support the concept that low-level exposure to asbestos is a health hazard in buildings and schools."<sup>2</sup>

The article received a tremendous amount of publicity, since asbestos companies around the country were being sued to the tune of \$80 billion for property damage, to cover the cost of removing presumably hazardous "asbestos-containing materials" (ACM's) from schools, churches and other buildings. Since the mid-sixties, asbestos-manufacturers had also paid billions of dollars to the victims of asbestos-related diseases. The tremendous publicity which followed the article led to a virtual moratorium on asbestos removal, and "qualified [asbestos-removal] contractors began going broke, one by one."<sup>3</sup>

What the general public did not know was that, of this article's five authors, four had close ties to the asbestos-producing industries, having served as consultants to the industry throughout their careers, and three were actually in the process of helping to defend asbestos makers in lawsuits. As a result, the article expressed the opinion of a very select few which were "contrary to the views that [had] been accepted and adopted by the mainstream [of science and government]."<sup>4</sup>

It appears that this article represented one part of a larger campaign by the asbestos manufacturers to downplay the negative effects of asbestos and save themselves from having to cover the costs of removing it from buildings and compensating victims. The campaign had actually begun about 5 years earlier when former asbestos manufacturers banded together to create the Safe Building Alliance (SBA). The group's goal is to prove that most asbestos exposure does not present health risks and to influence public policy to reflect this 'fact'. The Alliance is comprised of many of the same companies for which the authors of the *Science* article had been consultants and defendants: Owens-Corning, U.S. Gypsum, Keene Corporation and W.R. Grace and Company. While these companies "provide virtually all of SBA's funds,"<sup>5</sup> it also receives support from insurance companies which would have to cover the costs of damages and removal for the sued asbestos producers.

According to Barry Castleman, author of *Asbestos: Medical and Legal Aspects*, the effects of the *Science* article never would have been felt if it were not for the valiant efforts of the SBA. The group "has been absolutely vicious and tremendously effective," he says, "in its portrayal of scientific issues and its ability to get out its own methods despite the actual



## Notes

1. Phone interview with Barry Castleman, July 29, 1991.
2. "Asbestos: Scientific Developments and Implications for Public Policy," by B.T. Mossman, et al. *Science*, January 29, 1991, p. 294.
3. Phone interview with Barry Castleman, July 29, 1991.
4. Ibid.
5. *Sourcebook on Asbestos Disease*, Volume 3, by George and Barbara Peters, p. 489.
6. Phone interview with Barry Castleman, July 29, 1991.
7. Letter from John Welch to Ms. Linda Fisher, Assistant Administrator, Office of Pesticides and Toxic Substances, United States Environmental Protection Agency, June 4, 1991
8. *Sourcebook on Asbestos Disease*, Volume 3, by George and Barbara Peters, p. 490-3.
9. Ibid., p. 489.

**Safe Buildings Alliance'**  
Contributors as of 1991

The Celotex Corporation  
W.R. Grace & Co.  
Keene Corporation  
Owens Corning Fiberglass Corporation  
United States Gypsum Company

most CEA claims, including those insisting that small quantities of radiation are harmless, that nuclear waste disposal is safe and easy, that an accident on the scale of the 1986 Chernobyl disaster could not happen in the U.S., and most importantly, that nuclear energy can decrease our dependence on foreign oil by any significant amount.<sup>7</sup> According to SECC and other experts, in 1988, only 4% of the oil needed in the U.S. was used for electricity, while the other 96% went to transportation, industry, heating and other uses.<sup>8</sup> Of that 4%, only 10% came from Middle Eastern oil, so that .4% of the electricity produced in the U.S. was dependent on Arab oil. An increase in nuclear-produced electricity could not make a dent in U.S. dependence on Arab oil.<sup>9</sup>

SECC has not only released passive objections to CEA. Despite an annual budget equal to the amount it costs CEA to run one ad in *National Geographic*,<sup>10</sup> SECC has in the past convinced network television stations to remove deceptive CEA ads from their airwaves due to the blatant distortions they contain (e.g., that we should depend on "home-grown" nuclear energy, while over half of the uranium used in American reactors is imported).<sup>11</sup> As SECC director Scott Denman asserted, "Groups like CEA appear more interested in image-building and profit margins than public safety when they air these TV ads or run the kind of irresponsible print ads that appeared shortly after the Chernobyl accident."

SECC has also convinced Congress to investigate the Council. In 1984, a Congressional Committee found that many of the utilities supplying large contributions to CEA did not report or mis-filed these contributions with the U.S. government, and that it was highly probable that the money for these grants came directly from ratepayers.<sup>12</sup> This caused 60 utilities to drop their CEA membership, and only a few of them have subsequently rejoined. Today, sixty percent of the group's funding comes directly from utilities.<sup>13</sup>

Despite these small victories for the anti-nuclear movement, and despite the fact that every new nuclear power plant ordered since 1973 has been subsequently canceled,<sup>14</sup> USCEA is still extremely active and well-funded. In 1987, it acquired the Atomic Industrial Forum, the nuclear industry's official trade association, and again changed its name -- from Committee to Council. By 1989, its annual budget was 18.5 million dollars, and Harold Finger received a salary of almost \$350,000, including benefits.<sup>15</sup>

While groups like SECC and The Union of Concerned Scientists are trying to convince the public that conservation and renewable energy sources can drastically decrease the U.S. dependence on both foreign oil and nuclear energy, the United States Council for Energy Awareness is still spending millions of dollars to "resell the American public, decision-makers, opinion leaders and elected officials on nuclear power"<sup>16</sup> using "assertions that are either dubious, or outright wrong."<sup>17</sup>

At the same time, USCEA seems to be having a hard time with popular American humor. Last year, USCEA vice-president Carl Goldstein wrote an angry letter to Matt Groening and Sam Simon, producers of the prime-time cartoon "The Simpsons," complaining about the depiction of nuclear power plant worker Homer Simpson as "a bungling idiot." "You are confusing and frightening your viewers," Goldstein wrote. "[Homer] wouldn't be employed at any of the nation's operating nuclear power stations because he'd never pass the stringent training requirements."<sup>18</sup> Consumer advocate Ralph Nader disagrees. Citing several examples of power plant blunders, he wrote Groening and Simon, informing them that characters like Homer may truly exist. As he put it, "[T]here is cause for concern about the

# UNITED STATES COUNCIL FOR ENERGY AWARENESS

*"[The USCEA aims to create] a grudging acceptance of nuclear power. . . You want to create a sense of inevitability. . . building from a perceived need argument with safety considerations being secondary."*

-- Eugene Pokorny, USCEA pollster<sup>1</sup>

*"[The USCEA ads] present a decidedly lopsided and often distorted view of both the status of nuclear power and the availability of alternative means for meeting our national energy needs. . . The results of reading and accepting their message at face value would be a serious misunderstanding of national energy issues generally and the problems affecting nuclear power specifically."*

-- from a 1984 report by the Union of Concerned Scientists<sup>2</sup>

A full page magazine ad from 1989 shows a distorted caricature of the Ayatollah Khomeini glaring at the reader with an Uncle Sam figure, the size of his hand, wrapped around his finger. The caption reads "Foreign oil strengthens our ties to the Middle East." The smaller text states that the solution to the problem of foreign oil dependence is to use energy we can depend on -- nuclear energy. The sponsor of the ad is the U.S. Council for Energy Awareness. There is no explanation given indicating exactly what the group is. The reader is left questioning whether the group is a governmental organization seeking to inform the American public about energy.

In actuality, USCEA is an organization sponsored almost entirely by interested parties involved in the nuclear industry, including some of the largest utilities companies in America. Funding from these groups gives CEA nearly \$20 million to spend per year.<sup>3</sup> The Council claims it uses the money "to inform the American public about long-term energy supply problems and the importance of electric power in solving those problems and in fueling the economy."<sup>4</sup> However, minutes from a 1983 CEA board meeting reveal three much less ambiguous goals: to maintain in operation those nuclear power plants which are already in operation; to assure that those nuclear power plants which are being built do indeed open; and to create a climate of political and public opinion receptive to the construction of new electricity-generating plants when they are needed.<sup>5</sup>

The organization was founded in 1979 as the Committee for Energy Awareness, just as public fears about nuclear energy were brought to the fore by the accident at Three Mile Island. In January of 1982, one year after it was officially incorporated, CEA became the United States Committee for Energy Awareness. Apparently, this was an intentional effort to create ambiguity about the group. In a 1983 magazine interview, USCEA president and CEO Harold Finger stated, "I guess we chose our name very well. Many people ask us [if USCEA is a government agency or bureaucracy]."<sup>6</sup>

Numerous reports have been released citing the blatant misrepresentations in the CEA ad campaign. The Safe Energy Communication Council (SECC), a coalition of environmental, safe energy, and public interest groups formed in 1980, has found fault with

## United States Council for Energy Awareness<sup>20</sup>

Membership as of June 7, 1990

Alabama Power  
Arizona Public Service  
Carolina Power and Light  
Centerior Energy (Cleveland Electric and Toledo Edison)  
Central and Southwest Services  
Commonwealth Edison  
Connecticut Yankee  
Consolidated Edison  
Detroit Edison  
Duke Power  
Duquesne Light  
Eastern Utilities  
Florida Power  
General Public Utilities  
    Jersey Central Power and Light  
    Metropolitan Edison  
    Pennsylvania Electric  
Georgia Power  
Gulf Power  
Gulf States  
Houston Lighting and Power  
Mississippi Power Co.  
Northwest Utilities  
Northwestern Public Service  
Pennsylvania Power and Light  
Southern Indiana Gas & Electric  
Texas Utilities  
Vermont Yankee  
Wisconsin Power and Light  
Wisconsin Public Service  
Yankee Atomic Electric Company

safety of nuclear power plants. . .poorly-managed nuclear power plants may be operating with Simpson-like occurrences. . .Homer's activities are not 'cheap shots' at the nuclear industry. In fact, Homer's activities are, in effect, very 'animated' whistleblowing."<sup>19</sup>

17. "Money Talks," by Meadows, *Harrowsmith*, p. 17.
18. "Homer Sets Spoilsports on Edge," by Tom Ensign. *Toledo Blade*,  
March 11, 1990.
19. Letter from Ralph Nader to Matt Groening and Sam Simon,  
March 4, 1991.
20. Membership list, provided by the Safe Energy  
Communications Council. On file with the authors.

## Notes

1. Quoted in a letter from Jeanne Byrne, research associate with the Safe Energy Communications Council (SECC), to Louise M. Roselle, January 4, 1990.

2. *A Critical Review of the Printed Ads of the U.S. Committee for Energy Awareness*, by James J. MacKenzie, PhD., Senior Staff Scientist of the Union of Concerned Scientists. May, 1984, p. 1.

3. Letter from Byrne to Roselle.

4. Quoted in a letter from Scott Denman, Director, and Jeanne Lawson, Media Coordinator, of SECC, to Tina Toll, February 3, 1988.

5. Letter from Denman and Lawson to Toll.

6. Quoted in letter from Denman and Lawson to Toll.

7. SECC press releases: "Nuclear industry makes false claims regarding waste disposal," "Pro-nuclear 'Goliath's' TV ads taken off the air; safe energy 'David' claims victory," "Pro-nuclear, post-Chernobyl ad blitz: deceptive and irresponsible," and "Pro-nuclear, oil crisis ads misleading and irresponsible."

8. SECC press release: "Pro-nuclear, oil crisis ads misleading & irresponsible."

9. "Money Talks," by Donella Meadows. *Harrowsmith* 9., Jan/Feb, 1988, p. 16.

10. *Ibid.*, pp.17-8.

11. SECC press release: "Pro-nuclear 'Goliath's' TV ads taken off the air; safe energy 'David' claims victory," June 16, 1986.

12. "Subcommittee to investigate nuclear industry ad campaigns." News release from House Subcommittee on Energy Conservation and Power, June 9, 1983.

13. Letter from Byrne to Roselle.

14. *Ibid.*

15. *Ibid.*

16. Letter from Denman and Lawson to Toll.



"OSHA Reform -- which would completely rewrite the Occupational Health and Safety Act to the AFL-CIO's specifications."

"Expanded criminal penalties -- which would put corporate directors, officers, and managers directly at risk of imprisonment for almost any health and safety violation."

"Extended employee 'whistleblower' protection -- which would protect employees who talk with the government, the press, or even to competitors without first talking to their employers."

"Mandatory risk notification -- which would require employers to identify and notify all employers for the last 30 years who could have been exposed to an alleged workplace hazard."

...and six others.<sup>10</sup>

According to the AFL-CIO, all but two of these pieces of legislation are actually part of one OSHA Reform bill introduced on August 1, 1991. "I think it's very obvious this group was set up to do one thing, and it's be the employer counter to the OSHA reform. . . legislative efforts by the AFL-CIO and organized labor," according to a labor union leader who asked not to be identified.<sup>11</sup>

As further evidence for this fact, the source cites a Council brochure which he has obtained, entitled *What To Do When The OSHA Inspector Appears At Your Door*. The brochure gives employers advice on the best way to pass an OSHA inspection, but makes no reference to the possibility of simply meeting OSHA regulations. Instead, it gives the employer possible ways of stalling inspectors while possible areas of violation are corrected and of appealing citations for violations.

"I've got to believe that [lobbying] is the only reason the organization was set up. . . Industrial America is terrified of this [OSHA reform] bill," the union source said. He feels the Council must be one way they will attempt to fight it.<sup>12</sup>

Though the Council is one of few front groups which does not claim to be a grass-roots organization, and does not claim to be a public interest organization, its name may cause confusion among innocent parties. The AFL-CIO feels it is the epitome of an industry front.<sup>13</sup>

# WORKPLACE HEALTH AND SAFETY COUNCIL

*"If you are concerned about the scope of an inspection made after the inspector has obtained a warrant, attempt to persuade the inspector to suspend the inspection briefly or to proceed with other parts of the inspection that are not in dispute while your lawyer is contacted."*

-- From *What to do when the OSHA inspector appears at your door: A guide from A to Z*, a publication of the Workplace Health and Safety Council<sup>1</sup>

The July 13, 1991 issue of the *National Journal* reported the formation of "the new Workplace Health and Safety Council, a Washington association addressing occupational safety issues."<sup>2</sup> While the new council does address such issues, it is hardly working to make the workplace healthy and safe, as one might assume from the title. Instead the Council appears to be a industry front group which has been organized to fight reform to Occupational Safety and Health Administration (OSHA) regulations.<sup>3</sup>

The group was formed on April 30, 1991, and had its opening luncheon in early July, so little information about them exists at present. However, members of the AFL-CIO are working hard to uncover the facts about the new group, since they are convinced the Council exists solely to fight an OSHA reform bill which was introduced on August 1, 1991, and similar pending legislation.<sup>4</sup>

The Council operates out of the law offices of Shaw, Pittman, Potts and Trowbridge, "a Washington, D.C. law firm with an extensive workplace health and safety practice that focuses on legislative regulatory, and enforcement issues. . .[whose] clients include domestic and foreign corporations, individuals, and trade associations."<sup>5</sup> The Council's executive director is Shaw Pittman lawyer Susan Spangler Nussbaum, who in the past has served as assistant executive director to the Washington branch of the Business Roundtable and director of risk management of the National Association of Manufacturers.<sup>6</sup>

A request for general information about the group yielded a letter from Ms. Nussbaum, stating that the Council consists of "large and small businesses, working together with occupational safety and health experts for effective and reasonable federal workplace health and safety policies."<sup>7</sup> Ms. Nussbaum refused to disclose exactly which "small and large businesses" are members of the Council.<sup>8</sup>

The information mailing also included a basic brochure and an application for membership in the Council. The application asked for the "type of operation(s)" of the applying organization, "(e.g. Mining, Construction, Utility, Academic Institution, etc.)" and listed membership dues in three categories: Employers, Trade Associations and Academic Institutions.<sup>9</sup>

The brochure Ms. Nussbaum included carried the headline: "New workplace health and safety laws. . .new regulations. . .tougher enforcement. What's an employer to do?" On the inside, the brochure listed pending legislation and appealed to employers, "Add your voice and views to those of others who care about health and safety issues." Among the pieces of legislation it listed were:

**Appendix A:**  
**Corporations which donate to multiple front groups**

**Chevron:** Alliance to Keep Americans Working, American Council on Science & Health, Citizens for a Sound Economy, Coalition for American Energy Security, Consumer Alert, Council for Solid Waste Solutions, National Wetlands Coalition, Pacific Legal Foundation, People for the West! = 9

**Dow Chemical:** Alliance to Keep Americans Working, Alliance for Responsible CFC Policy, American Council on Science & Health, American Tort Reform Association, Citizens for a Sound Economy, Council for Agricultural Science & Technology, Council for Solid Waste Solutions, Foodwatch, Keep America Beautiful, National Safety Council = 10

**Exxon:** Alliance to Keep Americans Working, American Council on Science & Health, American Tort Reform Association, Citizens Against Government Waste, Consumer Alert, Council for Solid Waste Solutions, National Legal Center for the Public Interest, National Safety Council, National Wetlands Coalition = 9

**Mobil:** American Council on Science & Health, Citizens Against Government Waste, Citizens for a Sound Economy, Council for Solid Waste Solutions, Keep America Beautiful, National Legal Center for the Public Interest, National Safety Council, National Wetlands Coalition = 8

**Du Pont:** Alliance for Responsible CFC Policy, American Council on Science & Health, Council for Agricultural Science & Technology, Council for Solid Waste Solutions, Foodwatch, Keep America Beautiful, National Institute for Chemical Studies, National Safety Council = 8

**Amoco:** Alliance for Responsible CFC Policy, American Council on Science and Health, Citizens for a Sound Economy, Council for Solid Waste Solutions, Keep America Beautiful, National Safety Council, National Wetlands Coalition = 7

**Ford:** American Council on Science & Health, Coalition for Vehicle Choice (through MVMA), Keep America Beautiful, National Safety Council, National Legal Center for the Public Interest, Pacific Legal Foundation = 6

**Philip Morris:** Citizens for a Sound Economy, Consumer Alert, Council for Agricultural Science & Technology, Health Education Foundation, Keep America Beautiful, Product Opinion Laboratory = 6

**Pfizer:** American Council on Science & Health, Calorie Control Council, Consumer Alert, Council for Agricultural Science & Technology, Health Education Foundation, National Safety Council = 6

## Notes

1. *What to do when the OSHA inspector appears at your door*, by Win Froelich, M.D., J.D. Washington D.C.: Shaw, Pittman, Potts & Trowbridge, 1991, p.6.
2. *National Journal*, July 13, 1991, p.1766.
3. Phone interview with AFL-CIO staffer, August 2, 1991.
4. Phone interview with an AFL-CIO source who prefers to remain anonymous, August 2, 1991.
5. *What to do when the OSHA inspector appears at your door*, inside back cover.
6. *National Journal*, July 13, 1991.
7. Letter from Susan Spangler Nussbaum to Andy Friedman, July 26, 1991.
8. Phone interview, August 1, 1991.
9. From Application Form for membership in The Workplace Health & Safety Council
10. Information brochure of The Workplace Health & Safety Council.
11. Anonymous AFL-CIO source.
12. Ibid.
13. Phone interview with AFL-CIO staffer.

**John M. Olin Foundation:** American Council on Science & Health, Citizens for a Sound Economy, National Legal Center for the Public Interest, Pacific Legal Foundation = 4

**Sears, Roebuck:** American Tort Reform Association, Citizens Against Government Waste, Citizens for a Sound Economy, National Legal Center for the Public Interest = 4

**General Electric:** American Council on Science & Health, American Tort Reform Association, Citizens for a Sound Economy, National Safety Council = 4

**Goodyear:** Health Education Foundation, Citizens Against Government Waste, Keep America Beautiful = 3

**National Association of Manufacturers:** Coalition for Vehicle Choice, Coalition for American Energy Security, American Tort Reform Association, Alliance to Keep Americans Working = 4

**Pepsi:** American Council on Science & Health, Calorie Control Council, Keep America Beautiful = 3

**USX Corporation:** Alliance to Keep Americans Working, American Council on Science & Health, National Safety Council, Keep America Beautiful = 4

**Coca-Cola:** American Council on Science & Health, Calorie Control Council, Keep America Beautiful = 3

**General Mills:** American Council on Science & Health, Council for Agricultural Science & Technology, Keep America Beautiful = 3

**Georgia-Pacific:** Alliance to Keep Americans Working, Citizens for a Sound Economy Keep America Beautiful = 3

**W.R. Grace and Company:** Council for Solid Waste Solutions, Citizens Against Government Waste, Safe Buildings Alliance = 3

**Miller Brewing:** Beer Drinkers of America, BACCHUS of the U.S., Health Education Foundation = 3

**NutraSweet:** American Council on Science & Health, Calorie Control Council, Keep America Beautiful = 3

**Seagram's:** American Council on Science & Health, BACCHUS of the U.S., Keep America Beautiful = 3

**U.S. Chamber of Commerce:** Alliance to Keep Americans Working, Coalition for American Energy Security, Coalition for Vehicle Choice = 3

**Anheuser-Busch:** American Council on Science & Health, Beer Drinkers of America, BACCHUS of the U.S., Consumer Alert, Council for Agricultural Science & Technology, Keep America Beautiful = 6

**Coors:** American Council on Science & Health, Citizens for a Sound Economy, National Legal Center for the Public Interest, Pacific Legal Foundation = 4

**Monsanto:** American Council on Science & Health, American Tort Reform Association, Council for Agricultural Science & Technology, FoodWatch, National Institute for Chemical Studies, Pacific Legal Foundation = 6

**Phillips Petroleum:** Council for Solid Waste Solutions, Keep America Beautiful, National Legal Center for the Public Interest, National Safety Council, National Wetlands Coalition = 5

**Proctor & Gamble:** American Council on Science and Health, Council for Agricultural Science and Technology, Council for Solid Waste Solutions, Keep America Beautiful, National Safety Council = 5

**Sarah Scaife:** American Council on Science & Health, Citizens for a Sound Economy, National Legal Center for the Public Interest, Pacific Legal Foundation = 4

**Texaco:** Alliance for Responsible CFC Policy, National Legal Center for the Public Interest, National Safety Council, National Wetlands Coalition = 4

**Union Carbide:** American Council on Science & Health, American Tort Reform Association, Citizens for a Sound Economy, National Institute for Chemical Studies = 4

**ARCO:** Alliance for Responsible CFC Policy, Information Council on the Environment, Keep America Beautiful, National Wetlands Coalition, Pacific Legal Foundation = 5

**AT&T:** Alliance for Responsible CFC Policy, Citizens Against Government Waste, National Institute for Chemical Studies, National Legal Center for the Public Interest, National Safety Council = 5

**CIBA-GEIGY:** American Council on Science & Health, Council for Agricultural Science & Technology, Council for Solid Waste Solutions, FoodWatch = 4

**General Motors:** American Council on Science & Health, Citizens for a Sound Economy, Coalition for Vehicle Choice (through MVMA), National Safety Council = 4

**Eli Lilly:** American Tort Reform Association, Consumer Alert, Council for Agricultural Science & Technology, Pacific Legal Foundation = 4